

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

Stephen Brad Carter,

Debtor.

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Case No. 15-14354

Hon. Timothy A. Barnes

Chapter 7

NOTICE OF MOTION

TO: Stephen Brad Carter, 1825 W. 187th St., Homewood, IL 60430
* Paul M. Bach, Sulaiman Law Group, Ltd., 900 Jorie Boulevard, Suite 150, Oak Brook, IL 60523
* Patrick S. Layng, United States Trustee, 219 S. Dearborn, Suite 873, Chicago, IL 60604

Find all creditors on attached service list, all of whom were served via first-class mail

PLEASE TAKE NOTICE that on Wednesday, March 23, 2016 at 10:00 a.m., or as soon thereafter as counsel may be heard, we shall appear before the Honorable Timothy A. Barnes, or any other judge sitting in his stead, in Room 744 of the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604, and then and there present the **Trustee's Motion for Entry of an Order Authorizing the Sale of Property Free and Clear of Liens 11 U.S.C. 363(f)**, a copy of which is attached hereto and herewith served upon you, at which time and place you may appear if you see fit.

Dated: March 2, 2016

David P. Leibowitz, not individually, but as
the chapter 7 trustee of the estate of
Stephen Brad Carter

By: /s/ David P. Leibowitz

Lakelaw
53 W. Jackson Boulevard, Suite 1610
Chicago, IL 60604
Phone: (847) 249-9100
Facsimile: (847) 249-9180

CERTIFICATE OF SERVICE

I, Justin R. Storer, an attorney, hereby certify that on March 2, 2016, a true and correct copy of the **Trustee's Motion for Entry of an Order Authorizing the Sale of Property Free and Clear of Liens 11 U.S.C. 363(f)** was duly served on all parties. Those parties marked with an asterisk were served via electronic notice through the Court's CM/ECF system.

/s/ Justin R. Storer

Label Matrix for local noticing
0752-1
Case 15-14354
Northern District of Illinois
Chicago
Wed Mar 2 12:05:14 CST 2016

ACME Continental Credit Union
13601 S Perry Avenue
Riverdale, IL 60827-1655

Chase *
ATTN: Bankruptcy Department
P.O. Box 15298
Wilmington, DE 19850-5298

Diane Panos
12820 S Ridgeland Avenue
Suite A
Palos Heights, IL 60463-2389

Experian Information Solutions, Inc.
475 Anton Boulevard
Costa Mesa, CA 92626-7037

GE Capital Retail Consumer Finance
1600 Summer Street
Fifth Floor
Stamford, CT 06905-5125

John Stephen Carter
c/o Stephen Brad Carter Guardian
1825 W 187th Street
Homewood, IL 60430-3724

Melissa A Bugajsky
2527 Dakota Trail
Fern Park, FL 32730-3003

Orange Lake Country
Attn: Bankruptcy
8505 W Irlo Bronson Memorial Highway
Kissimmee, FL 34747-8201

Statewide Credit Association
Po Box 20508
Indianapolis, IN 46220-0508

U.S. Bank National Association, as Trustee
C/O Wells Fargo Bank, N.A., as servicer
Attn: Bankruptcy Dept./MAC# D3347-0
3476 Stateview Blvd.
Fort Mill, SC 29715-7203

Cach LLC
Attention: Bankruptcy
4340 South Monaco St. 2nd Floor
Denver, CO 80237-3485

Citicorp Credit Services *
ATTN: Internal Recovery; Centralized Bk
P.O. Box 790034
Saint Louis, MO 63179-0034

Dupage County Collector
421 N. County Farm Road
Wheaton, IL 60187-3992

First Midwest Bank
3800 Rock Creek Boulevard
Joliet, IL 60431-7939

Illinois Collection Service
Illinois Collection Service
Po Box 1010
Tinley Park, IL 60477-9110

Kankakee Valley REMC
8642 W US Highway 30
Wanatah, IN 46390-9715

Midland Funding
8875 Aero Drive Suite 200
San Diego, CA 92123-2255

Orland Fire Protection District
9788 W. 151st Street
Orland Park, IL 60462-3110

Tom C. Edwards
19630 Governors Highway
Floosmoor, IL 60422-2078

U.S. Bankruptcy Court
Eastern Division
219 S Dearborn
7th Floor
Chicago, IL 60604-1702

Chase *
3415 Vision Drive
Mail Code OH4-7142
Columbus, OH 43219-6009

Cook County Assesor's Office
118 N. Clark Street
Chicago, IL 60602-1304

Equifax Information Services, LLC
1550 Peachtree Street NW
Atlanta, GA 30309

GE Capital Retail Bank
Gecrb/Sams Club
Po Box 103104
Roswell, GA 30076-9104

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

LaPorte County Treasurer's Office
555 Michigan Avenue, Suite 102
La Porte, IN 46350-3491

Municipal Trust c/o Steven Plato Troy
116 N Chicago Street
Suite 202
Joliet, IL 60432-4207

Pierce & Associates
1 North Dearborn
Ste 1300
Chicago, IL 60602-4373

Trans Union LLC
P.O. Box 2000
Chester, PA 19022-2000

Victoria Carter
341 Hans Brinker Road
Peotone, IL 60468-9144

Victoria Carter
P.O. Box 1041
Peotone, IL 60468-1041

Wells Fargo Bank, N.A., as servicing agent f
c/o Pierce & Associates
1 N. Dearborn, Suite 1300
Chicago, IL 60602-4321

(p)WELLS FARGO BANK NA
WELLS FARGO HOME MORTGAGE AMERICAS SERVICING
ATTN BANKRUPTCY DEPT MAC X7801-014
3476 STATEVIEW BLVD
FORT MILL SC 29715-7203

Will County Clerk
302 N. Chicago Street
Joliet, IL 60432-4078

William Smith
8102 W 119th Street
Suite 150
Palos Park, IL 60464-3081

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

Stephen Brad Carter,

Debtor.

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Case No. 15-14354

Hon. Timothy A. Barnes

Chapter 7

**TRUSTEE’S MOTION FOR ENTRY OF AN ORDER AUTHORIZING THE SALE OF
PROPERTY FREE AND CLEAR OF LIENS UNDER 11 U.S.C. 363(f)**

David P. Leibowitz, not individually but as chapter 7 trustee (the “Trustee”) for the bankruptcy estate of Theodore Carter (the “Debtor”), by and through his undersigned attorneys, hereby moves this Court (the “Motion”) for entry of an order, pursuant to sections 363(f) of title 11 of the United States Code, as amended (the “Bankruptcy Code”), authorizing the Trustee to transfer the estate’s right, title and interest in real property known as 16W611 Mockingbird Lane, #102, Willowbrook, IL 60527-6606 (“Mockingbird”) to Anand Sheth, an individual, in exchange for payment of \$55,000.00 (fifty-five thousand dollars). In support thereof, Trustee states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) as it concerns the administration of the estate. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are sections 105(a) and 363(f) of the Bankruptcy Code.

BACKGROUND

3. On April 22, 2015 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code [Docket No. 1].

4. David P. Leibowitz is the duly-appointed Trustee.

5. On his schedule original schedule A, the Debtor failed to disclose an ownership interest in 16W611 Mockingbird Lane, Unit 102, Willowbrook, Illinois, 60527, in Du Page County. Nevertheless, the Debtor listed on his original schedule D that he was liable for the assessment on that property and that the value of the property was \$92,000, and that there were no other liens on the property.

6. On his amended schedule A, dated July 20th, 2015, the Debtor disclosed his ownership in Mockingbird and signaled that he held it in fee simple, and that his interest was worth \$70,000. On his amended schedule D, also filed on July 20th, 2015, he disclosed that Melissa A. Bugajsky (“Bugajsky”) held a secured interest in Mockingbird, and that her claim was \$71,250.

7. On his next amended schedule A, dated January 12th, 2016, the Debtor valued the property at \$50,000.00, and disclosed that Bugajsky’s claim was \$33,894.50.

8. The Debtor has never suggested that Mockingbird was homestead property.

9. The payments on the claim of the Mockingbird condo association appear to be substantially current; the Debtor has been receiving rent and testified at his 2004 examination that he was using the rents to pay the association and property taxes to Du Page County.

10. The Trustee reasonably believes that other than those described above, there are no other liens or encumbrances against the property.

11. The Trustee has not employed a real estate broker for this transaction; pursuant to paragraph 2.04 of the contract, seller shall pay one-half of the escrow agent’s escrow fee,

applicable charges, seller's own attorney's fees, applicable transfer taxes, and the cost of the Title Policy and extended coverage endorsements; the estate's request to employ special counsel to handle closing will be presented separately and that special counsel will cost no more than \$900.00. This Motion requests that these costs be allowed as expenses of this Estate without further order.

RELIEF REQUESTED

12. By this Motion, the Trustee requests that this Court authorize and approve the transfer of the estate's right, title and interest in the Property to Anand Sheth, an individual, pursuant to the attached sale contract, for \$55,000. See attached Exhibit A.

13. Not in dispute is that Bugajsky's lien will attach to the proceeds of the sale; even after the satisfaction of her lien, the sale will additionally occasion substantial value for the estate.

BASIS FOR RELIEF

14. Pursuant to section 363(b) of the Bankruptcy Code, "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate..." 11 U.S.C. § 363(b). To do so, the trustee must have an "articulated business justification." *In re Schipper*, 933 F.2d 513, 515 (7th Cir. 1991) (citing *In re Continental Air Lines*, 780 F.2d 1223, 1226 (5th Cir. 1986)). Moreover, the criteria for approval under section 363(b) are whether the transaction makes good business sense and does not disturb creditors' rights. *United Retired Pilots Benefits Protection Assn. v. United Airlines, Inc. (In re UAL Corp.)*, 443 F.3d 565, 572 (7th Cir. 2006).

15. According to section 363(f), the Trustee may sell property of the estate free and clear of any interest in such property of an entity other than the estate, only if... (2) such entity consents, and (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property.

16. In this instance, the third provision of section 363(f) is satisfied, and (as Bugajsky would be paid in full apace, at closing); the Trustee is additionally in regular contact with Bugajsky's agents, and can represent that Bugajsky consents to his liquidation of the property.

17. The relief requested in this Motion also is supported by section 105(a) of the Bankruptcy Code, which provides, in pertinent part, that: "the Court may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

18. The Trustee has investigated the value of the Property and believes in the exercise of his informed business judgment that the foregoing transaction is appropriate, makes good business sense and does not disturb creditors' rights.

NOTICE

19. The Trustee is mindful that Federal Rule of Bankruptcy Procedure 2002(a)(2) provides that twenty-one days' notice is ordinarily required for a motion occasioning the proposed use, sale, or lease of property of the estate other than in the ordinary course of business; the Trustee submits that notice provided by this Motion is sufficient under that Rule.

WHEREFORE, the Trustee respectfully requests that this Court enter an order authorizing him to sell the estate's right, title and interest in Mockingbird, as described herein, for a figure of \$55,000.00, pursuant to the contract appended to this Motion as exhibit A.

Dated: March 2, 2016

David P. Leibowitz, not individually, but as the
chapter 7 trustee of the estate of Stephen Brad
Carter

By: /s/ David P. Leibowitz

Lakelaw
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